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OFFICE OF THE SECRETARY

January 24, 2000

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## VIA HAND DELIVERY

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C.

Re: Digital Audio Broadcasting Systems And Their Impact On the Terrestrial  
Radio Broadcast Service: Docket No. 99-325

Dear Ms. Salas:

Enclosed on behalf of Freedom Communications, Inc. ("Freedom") are an original and two copies of the comments of Freedom on the Commission's Notice of Proposed Rule Making in the above referenced matter.

If you have any questions, please call me at (202) 637-2200.

Respectfully submitted,



John P. Janka

Alexander D. Hoehn-Saric

Enclosures

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )

Digital Audio Broadcasting Systems )  
And Their Impact On The Terrestrial Radio )  
Broadcast Service )

MM Docket No. 99-325

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

**COMMENTS OF  
FREEDOM COMMUNICATIONS, INC.**

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Counsel for  
FREEDOM COMMUNICATIONS, INC.

January 24, 2000

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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Digital Audio Broadcasting Systems )  
And Their Impact On The Terrestrial Radio )  
Broadcast Service )  
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MM Docket No. 99-325

**COMMENTS OF FREEDOM COMMUNICATIONS, INC. ON  
NOTICE OF PROPOSED RULE MAKING**

Freedom Communications, Inc. ("Freedom") files these comments in response to the Commission's Notice of Proposed Rule Making (the "Notice") in the above referenced proceeding.<sup>1</sup> In the Notice, the Commission seeks comment on issues surrounding the Commission's proposals to develop and implement digital audio broadcasting ("DAB") technology, and the impact of its proposals on digital television ("DTV") broadcast services.

**I. INTRODUCTION**

Freedom is the parent corporation of the licensees of eight full-service commercial television stations, three of which are assigned to Channel 6: WLNE(TV), New Bedford-Providence, Massachusetts; WRGB(TV), Albany-Schnectady-Troy, New York; WTVC(TV), Chattanooga, Tennessee; KFDM(TV), Beaumont-Port Arthur, Texas; WWMT(TV) Kalamazoo, Michigan; WLAJ(TV), Lansing, Michigan; KTVL(TV), Medford, Oregon; and WPEC(TV), West Palm Beach, Florida.<sup>2</sup> As an experienced television broadcaster, Freedom is

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<sup>1</sup> *Notice of Proposed Rule Making*, MM Docket No. 99-325, FCC 99-327 (Rel. Nov. 1, 1999).

<sup>2</sup> WLNE(TV), New Bedford-Providence, Massachusetts, WRGB(TV), Albany-Schnectady-Troy, New York, and KFDM(TV), Beaumont-Port Arthur, Texas are all assigned to Channel 6.

well-qualified to comment on the effects on the television industry of the Commission's DAB proposals, especially as they relate to the possible use of the six megahertz of spectrum at 82-88 MHz, currently used for TV Channel 6.

For over a decade, the Commission, in conjunction with television broadcasters, has expended considerable efforts to make digital television ("DTV") a reality for the American public. Under the Commission's DTV implementation framework, analog television licensees will receive a "paired" DTV channel assignment over which the broadcaster will initiate digital transmissions during a transition period. At the end of this period, the Commission decided that broadcasters may elect to keep their existing analog channel when they convert to all-digital service and return the second "paired" channel. Based on the input from the public received in response to six separate requests for comments, the Commission established this system and *specifically found that it was in the best interests of the public that the frequencies associated with TV Channel 6 be maintained for DTV use.*

Throughout this process, Freedom has supported the Commission's efforts to facilitate the advancement of DTV. Based on the Commission's DTV orders, Freedom has implemented plans and made substantial investments to prepare for the broadcast of DTV under a "paired" channel framework. Freedom's current plans include the roll-out of DTV broadcasts on less favorable UHF frequencies followed by the eventual conversion of Freedom's current Channel 6 stations to all digital broadcast. Thus, a number of Freedom's stations are relying on the ability to return to Channel 6 at the end of the transition period.

More recently, the Commission also has begun to seek methods of introducing DAB to the American public. In the Notice, the Commission seeks comment on "whether the six megahertz at 82-88 MHz, currently used for TV Channel 6, could be reallocated to DAB service

at the end of the DTV transition . . . [and] whether this spectrum could be reallocated without adversely affecting the broadcast television service.”<sup>3</sup>

In short, the answer is “No.” In light of the Commission’s prior findings and the reliance of Freedom and other television broadcasters on the rulings of the Commission that Channel 6 will be available for DTV, any use of the 82-88 MHz band for DAB would adversely affect the broadcast television service. If the Commission were to reallocate Channel 6 for DAB, the DTV strategy of Freedom and other Channel 6 licensees will be significantly disrupted and Channel 6 television licensees would bear a disproportionate share of the cost of DTV implementation.

**II. THE COMMISSION HAS RECOGNIZED THE IMPORTANCE OF MAINTAINING CHANNEL 6 AS A DTV FREQUENCY BAND**

*We continue to believe that it is important to maintain the availability of channel 6 for television service. Channel 6 has advantageous propagation properties and has proven very desirable for television operation – as indicated by the fact that there are currently more than 55 NTSC television stations on this channel. We believe it would be undesirable to remove channel 6 from the core spectrum or to impose additional restrictions on use of this channel for DTV service after transition.*<sup>4</sup>

The Commission has acknowledged that the successful implementation of DTV requires that the Commission provide a clear and firm structure under which licensees can plan their conversion to DTV. Nearly two years ago, realizing that “postponing a decision on the low-VHF channels has raised uncertainties for licensees whose existing and/or DTV channels are in that portion of the spectrum,” the Commission expanded the “core” DTV spectrum to include

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<sup>3</sup> Notice at ¶ 41; *see also* ¶ 44.

<sup>4</sup> *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, MM Docket No. 87-268, FCC 98-315, ¶ 57 (Rel. Dec. 18, 1998) (“Second Memorandum Opinion”).

Channels 2-6.<sup>5</sup> The Commission found that expansion of the core would “eliminate the planning uncertainties for many broadcasters that have either DTV or NTSC channels in the Channel 2-6 or 47-51 regions of the spectrum” thereby alleviating difficulties and burdens that had been placed upon those broadcasters.<sup>6</sup> Moreover, the Commission found that expanding the core would have the effect of promoting additional competition and diversity in the provision of DTV services and limiting the displacement of a significant number of stations.<sup>7</sup> One year later, the Commission specifically reaffirmed its determination to include Channel 6 in the core DTV spectrum. In its reconsideration decision, the Commission emphasized the importance of maintaining the availability of Channel 6 for television.<sup>8</sup> This decision gave further reassurance to Freedom and other broadcasters that Channel 6 would remain a viable frequency band for DTV broadcasts after the transition period. Television station licensees, including Freedom, have relied upon the Commission’s decisions and have planned their DTV roll-out strategies based on those statements.

For example, Freedom has undertaken significant planning and dedicated considerable resources toward implementing a DTV strategy that anticipates the use of Channel 6 in the post-transition period for certain stations whose “paired” UHF channels present implementation obstacles. Freedom’s support for the Commission’s DTV implementation programs, in part, has been based on the Commission’s continued reassurances that Channel 6 will remain available for DTV broadcasts.

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<sup>5</sup> *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, MM Docket No. 87-268, FCC 98-24, ¶¶ 42-46 (Rel. Feb. 23, 1998).

<sup>6</sup> *Id.* at ¶¶ 42-43.

<sup>7</sup> *Id.* at ¶¶ 43-44.

<sup>8</sup> Second Memorandum Opinion at ¶¶ 54-57.

Any last minute reallocation of the Channel 6 frequency band would adversely affect broadcast television services for those consumers currently served by Channel 6 stations. Specifically any change in the DTV rules could throw into disarray the economic and strategic foundations of Freedom's and other Channel 6 licensees' plans. With the Commission mandated start of DTV broadcasts only 16 months away, Channel 6 licensees would have little time to adjust their plans.

Moreover, any reallocation of the television Channel 6 frequency for DAB would impose on current Channel 6 licensees a disproportionate share of DTV operating costs. If a Channel 6 station were required to permanently implement its DTV operations on its "paired" UHF channel, it would face a permanent increase in operating costs. As the Commission is well aware, in moving from a VHF channel to a UHF channel, most stations will face a substantial increase in power costs, particularly those who will operate at the high end of the UHF spectrum. While many VHF in-market competitors will face similar power cost increases during the transition period, those costs will significantly decrease when they return to their original VHF channels. But if Channel 6 is not available at the end of the transition period, a current Channel 6 station may not be able to employ the same business strategy to reduce costs.

### **III. CONCLUSION**

Freedom remains committed to working with the Commission to foster the implementation of DTV. For this reason, Freedom strongly opposes any proposal to reverse the Commission's prior decision that Channel 6 will remain available for television stations during

and after the DTV transition period. The Commission therefore should summarily reject further consideration of any proposal to use Channel 6 for DAB purposes.

Respectfully submitted,

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January 24, 2000